

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**ZACHARY TAYLOR WILBURN**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 3:15-CV-168-MPM-SAA  
LEAD CASE**

**CITY OF SOUTHAVEN, MISSISSIPPI, and  
S.P.D. Officer DWIGHT BRITTAIN, individually  
and in his official capacities as an officer, agent  
and/or employee of the City of Southaven, Mississippi**

**DEFENDANTS**

**CONSOLIDATED WITH**

**EVELYN DENISE SMITH, Individually,  
And also as the Personal Representative  
of Kaitlyn Taylor Hooper (deceased);  
ESTATE OF KAITLYN TAYLOR HOPPER  
(deceased), acting by and through Evelyn Denise Smith,  
the duly appointed Administrator of the  
Estate of Kaitlyn Taylor Hopper (deceased);  
SCOTT HOPPER, individually, and also as the  
Personal Representative of Kaitlyn Taylor Hopper (deceased)**

**PLAINTIFFS**

**v.**

**CIVIL ACTION NO. 3:15-CV-176-MPM-SAA**

**CITY OF SOUTHAVEN, MISSISSIPPI;  
DWIGHT BRITTAIN, Individually  
and in his official capacities as an agent, employee,  
and/or servant of the City of Southaven;  
and JOHN DOE(S) 1 through 10, Inclusive**

**DEFENDANTS**

**ORDER GRANTING MOTION TO CONSOLIDATE**

Defendants City of Southaven, Mississippi and Dwight Brittain, individually and in his official capacities as an agent, employee, and/or servant of the City of Southaven, have moved under Rule 42(a) of the FEDERAL RULES OF CIVIL PROCEDURE, and Rule 42 of the LOCAL

UNIFORM CIVIL RULES, for an Order consolidating these actions for all pretrial and trial purposes. This motion is unopposed by the plaintiffs in both cases.

Both cases originate from the same incident, an all-terrain vehicle accident which occurred in Southaven, Mississippi on February 7, 2015 and which resulted in the death of Kaitlyn Taylor Hopper and serious bodily injury to Zachary Taylor Wilburn. Civil Action No. 3:15-cv-168-MPM-SAA (“the Wilburn case”) was filed in this court on October 2, 2015 and is assigned to U.S. District Judge Michael P. Mills. Similarly, Civil Action No. 3:15-cv-176-MPM-SAA (“the Hopper case”) was filed in this court on October 13, 2015 and is also assigned to Judge Mills. No discovery has been conducted in either case.

RULE 42(a) of the FEDERAL RULES OF CIVIL PROCEDURE provides that “actions before the court [which] involve a common question of law or fact . . . may [be] consolidate[d].” Here, the law favors consolidation of these two cases. Common questions of law and fact exist in both cases because the claims in each arise out of the same accident. Additionally, most of the potential witnesses necessary to the litigation are likely to be common to all parties. And, finally, because the same legal and factual issues are presented in each case, consolidation would prevent unnecessary duplication of discovery, research, and pretrial motions. Accordingly, it is

**ORDERED**

that the Wilburn case, No. 3:15-cv-168-MPM-SAA, is hereby consolidated with the Hopper case, No. 3:15-cv-176-MPM-SAA. Pursuant to LOCAL RULE 42, Number 3:15-cv-168-MPM-SAA will serve as the lead case because it is the lower docket number of the two, and the style will read as above captioned.

All counsel are directed to indicate both the lead case number and the consolidated case number in the caption of any documents filed with court. The word "CONSOLIDATED" must appear directly under the lead case number. All counsel are directed to docket and file all documents in the lead case unless otherwise directed. Documents may be filed in all cases by printing the words "FILED IN ALL CASES" in the caption under the last case number and electronically filing the document in every case which the document is to be filed, or appropriately spreading the filing according to the court's electronic case management and filing system. Counsel are responsible for accurately and correctly adhering to these requirements in all filings via the court's electronic case management system.

This the 16<sup>th</sup> day of November 2015.

/s/ S. Allan Alexander  
UNITED STATES MAGISTRATE JUDGE